

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

PREPARED FOOD PHOTOS, INC.,

Plaintiff,

v.

SHARIF JABER and NOFAL, LLC,
doing business as FOOD TOWN
MART,

Defendants.

Case No. 22-CV-642-JPS

ORDER

This case came before the Court for a jury trial on October 28, 2024. ECF No. 48. The jury was instructed on October, 29, 2024 as to the law relevant to the claims and defense at issue. *Id.* at 8–9; ECF No. 49 at 11–18. With respect to damages, the jury was instructed that, if they found either Defendant NOFAL, LLC doing business as Food Town Mart (“NOFAL”) or NOFAL and Defendant Sharif Jaber (“Jaber”) liable for infringing Plaintiff Prepared Food Photos, Inc.’s (“Plaintiff”) copyright, they should determine both the actual damages that Plaintiff sustained, and Plaintiff’s statutory damages, including a finding of whether any infringement was willful. ECF No. 49 at 16–18; *see* 17 U.S.C. § 504(b) (permitting “the copyright owner [to] elect, at any time before final judgment is rendered, to recover, instead of actual damages and profits, an award of statutory damages”).

The jury rendered its verdict the same day, finding that:

- NOFAL did infringe upon the copyrighted material of Plaintiff
- NOFAL did not make fair use of Plaintiff’s work;

- Jaber did not vicariously infringe upon the copyrighted material of Plaintiff;
- The sum of \$200.00 fairly and reasonably compensates Plaintiff for its actual damages;
- The sum of \$1,000.00 fairly and reasonably compensates Plaintiff for its statutory damages; and
- NOFAL's infringement of Plaintiff's copyrighted material was not willful.

ECF No. 50. After the verdict was published, the Court directed Plaintiff to file a notice electing the measure of damages that it wished to receive. ECF No. 48 at 9; 17 U.S.C. § 504(b). Plaintiff elected an award of actual damages, in the amount of \$200.00 as determined by the jury. ECF No. 52.

Based on the jury's findings, the Court will dismiss with prejudice Plaintiff's claim of vicarious liability against Jaber. ECF No. 19 at 8–9. Further, the Court dismisses any claim by Plaintiff that either named Defendant willfully infringed Plaintiff's copyrighted material. *See id.* at 6–9. The Court will adopt Plaintiff's election of damages and order NOFAL to pay \$200.00 in actual damages to Plaintiff. Having disposed of all claims and the defense in this matter, the Court will order that this case be dismissed.

Accordingly,

IT IS ORDERED that Plaintiff Prepared Food Photos, Inc.'s claim of vicarious liability for copyright infringement against Defendant Sharif Jaber, ECF No. 19 at 8–9, be and the same is hereby **DISMISSED with prejudice**;

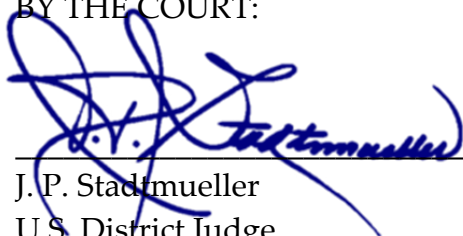
IT IS FURTHER ORDERED that Plaintiff Prepared Food Photos, Inc. shall have and recover from Defendant NOFAL, LLC doing business as Food Town Mart \$200.00 in actual damages; and

IT IS FURTHER ORDERED that this case be and the same is hereby **DISMISSED**.

The Clerk of Court is directed to enter judgment accordingly.

Dated at Milwaukee, Wisconsin, this 7th day of November, 2024.

BY THE COURT:



J. P. Stadmueller
U.S. District Judge